REMARKS

Applicant has carefully reviewed the Application in light of the Office Action dated November 14, 2007. Claims 1-20 are pending in the application. Applicant respectfully requests reconsideration of the application in accordance with the following remarks.

Section 101 Rejections

Claims 10-18 were rejected under 35 U.S.C. § 101 for being directed to non-statutory subject matter. The Office Action states that although the claims are identified as system claims, the components of the system are instructions executed by a computer and are thus considered programs per se and at best functional descriptive material per se.

Claim 10 recites, in part, "A system for preventing identity theft in electronic communications, comprising: instructions stored on a computer-readable medium for sequencing an encryption key transaction from a trusted service for generating for an individual a consumer identifier" and "instructions stored on a computer-readable medium for allowing the individual to control access to commercially related use of said consumer identifier by third parties." (emphasis added).

The *Manual of Patent Examining Procedure* clearly states that when functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases. § 2106.01, ¶ 2 (8th ed. Aug. 2001, latest rev. Aug. 2006). Claim 10 includes functional descriptive material, as noted in the previous Office Action (page 2) and the current Office Action (page 2). Since the functional descriptive material of claim 10 is stored on a computer-readable medium, claim 10 is directed to statutory subject matter.

Accordingly, since claim 10 satisfies the requirements for statutory subject matter, Applicant requests removal of the rejection to claim 10 and its corresponding dependent claims.

Section 102 Rejections

Claims 1-20 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S.
Application Publication No. 2003/018960 A1 to Engberg ("Engberg"). Applicant respectfully
disagrees that the claims are unpatentable over the Engberg reference.

Claim 1 recites, in part:

sequencing an encryption key transaction from a trusted service for generating for
an individual a consumer identifier by performing the steps of:
    issuing from said trusted service a primary key to the individual;
    issuing to the individual a unique identifier from said trusted service; and
    permitting the individual to generate and maintain a consumer-defined
sequence through said trusted service.

The Engberg reference fails to teach at least this feature of the claim. The Office Action
states that this feature is taught in paragraph 0404 of the Engberg reference. However, the cited
portions of the Engberg reference teach a secret shared symmetric key, or SYMKEY, to encrypt
communications between a client and a company (Engberg, paragraph 0404). The Engberg
reference teaches that the client can create the SYMKEY and encrypt it with a random challenge
text using the public key of the company (Engberg, paragraph 0406). The Engberg reference
also teaches using a modified Diffie-Hellman protocol to transfer part of the public key of a
company, where the company finishes the modified protocol by generating the SYMKEY
(Engberg, paragraph 0409). The Engberg reference teaches that these SYMKEYs can be created
without revealing this to the trusted party (Engberg, paragraph 0404).

Thus, the Engberg reference fails to teach sequencing an encryption key transaction from
a trusted service for generating for an individual a consumer identifier by issuing from a trusted
service a primary key to the individual, issuing to the individual a unique identifier from said
trusted service, and permitting the individual to generate and maintain a consumer-defined
sequence through said trusted service. Instead, cited portions of the Engberg reference teach not
using a trusted service to generate a consumer identifier. In addition, the cited portions of the
Engberg reference teach use of a SYMKEY that is generated using the public key of the
company rather than generating a consumer identifier by issuing a primary key and a unique

identifier <u>from the trusted service</u> <u>and</u> by allowing an individual to generate <u>a consumer-defined</u> <u>sequence through the trusted service</u>. Accordingly, since the Engberg reference fails to teach all the features of the claim, claim 1 and its corresponding dependent claims are allowable over the cited art.

Independent claims 10 and 19 include limitations similar to claim 1. Accordingly, for at least the reasons previously mentioned in connection with claim 1, claims 10 and 19 and their corresponding dependent claims are allowable over the cited art.

CONCLUSION

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

No fees are believed to be due at this time. If any extension of time is required, Applicant hereby requests the appropriate extension of time. Please apply any other charges or credits to Deposit Account No. 05-0765.

Respectfully submitted,

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